

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:17-cv-00145-MR-DLH**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**APPROXIMATELY \$8,651 IN FUNDS
SEIZED INCIDENT TO THE ARREST
OF CHRISTOPHER MARK ERWIN,**

Defendant.

**MEMORANDUM OF
DECISION AND ORDER**

THIS MATTER is before the Court on the Government's Motion for Default Judgment [Doc. 8].

On June 9, 2017, the Government initiated this civil forfeiture action pursuant to 18 U.S.C. § 981(a)(1)(A) and 21 U.S.C. § 881 against the defendant property. [Doc. 1]. As grounds for forfeiture, the Verified Complaint alleges in part that the defendant property was "seized incident to the arrest of Christopher Mark Erwin and constitutes "proceeds of and/or was used to facilitate drug trafficking crimes." [*Id.* at ¶¶ 5, 6].

The Government posted notice of this civil forfeiture action for a period of 30 consecutive days, beginning on June 2, 2017, as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims

and Asset Forfeiture Actions. [Doc. 5]. Additionally, the Government provided direct notice to “Mr. Mark Erwin, c/o Stanley D. Young, Esq., 68 North Market Street, Asheville, North Carolina 28801.” [See Doc. 6]. On July 13, 2017, Mark Edward Erwin filed a Notice, withdrawing his interest in the defendant property and expressly abandoning any claim or interest he had in such property. [Doc. 4]. On September 19, 2017, the Government filed the present motion for a default judgment against all persons and entities. [Doc. 8].

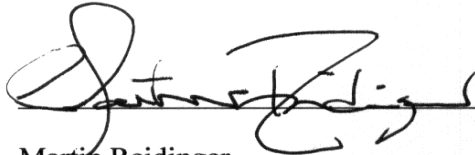
Rule G(4)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture requires that the Government “send notice of the action and a copy of the complaint to any person who reasonably appears to be a potential claimant” Here, the Government alleges that the defendant property was seized from, and incident to the arrest of, one Christopher Mark Erwin. [Doc. 1 at ¶ 7]. The Government did not, however, provide any direct notice to Christopher Mark Erwin, as required by Rule G(4)(b)(i). Rather, it provided direct notice only to “Mr. Mark Erwin, c/o Stanley D. Young.” It is unclear from the record what Mark Erwin’s relationship to this matter is. In any event, however, the Government failed to provide direct notice to a potential claimant, that being the person from

whom the defendant property was directly seized. Accordingly, the Government's motion for default judgment is denied.

IT IS, THEREFORE, ORDERED that the Government's Motion for Default Judgment [Doc. 8] is **DENIED**.

IT IS SO ORDERED.

Signed: November 17, 2017


Martin Reidinger
United States District Judge

